

### **REMARKS**

This is a reply to the Office Action dated December 20, 2010, in the above-referenced patent application. Applicant thanks the Examiner for his withdrawal of the prior Section 103 rejection based on Shum in view of Egan.

#### **Status of Claims Prior to Entry of this Amendment**

Claims 1-7 were pending. Claims 1-3, 6 and 7 are rejected under 35 U.S.C. §103(a) as being obvious over Vogeles (WO 97/20515) (a 1997 WIPO publication directed to one of applicant's earlier inventions in this field) ("**Vogeles**") in view of **Charles et al.** (2002-0133174 A1). Claims 4 and 5 are rejected under 35 U.S.C. §103(a) as being obvious over **Vogeles** in view of **Charles et al.** and further in view of **Hosko** (2,982,248).

#### **Claim Amendments**

Applicant has canceled dependent Claims 4 and 6 after incorporating their substance into independent Claim 1. As such, Claims 1-3, 5, and 7 are currently pending. Claim 1 is independent.

#### **Rejections under 35 U.S.C. §103(a)**

Applicant has amended Claim 1 to incorporate the subject matter of dependent Claims 4 and 6 (now canceled). Applicant respectfully submits that amended Claim 1 is allowable over the cited references for the following reasons.

The Office Action cites **Vogeles** and **Charles et al.** for rejecting Claims 1 and 6 (now combined into Claim 1), and further adds **Hosko** for rejecting Claim 4 (now combined into Claim 1 too).

As exemplified by the preferred embodiment, and as set forth in Claim 4 now incorporated into Claim 1, Applicant's amended claims are directed to a unique apparatus for introducing needles or probes that "comprises a base plate formed from a scaffold- or portal-like frame that is configured for surrounding a patient". As disclosed in the original specification, an exemplary advantage of providing a portal-like frame that is configured to surround the patient is that, "[d]uring surgery, the patient [may be] fitted in precisely the same manner into the frame 1a as he was scanned in the CT" (Paragraph [0014]):

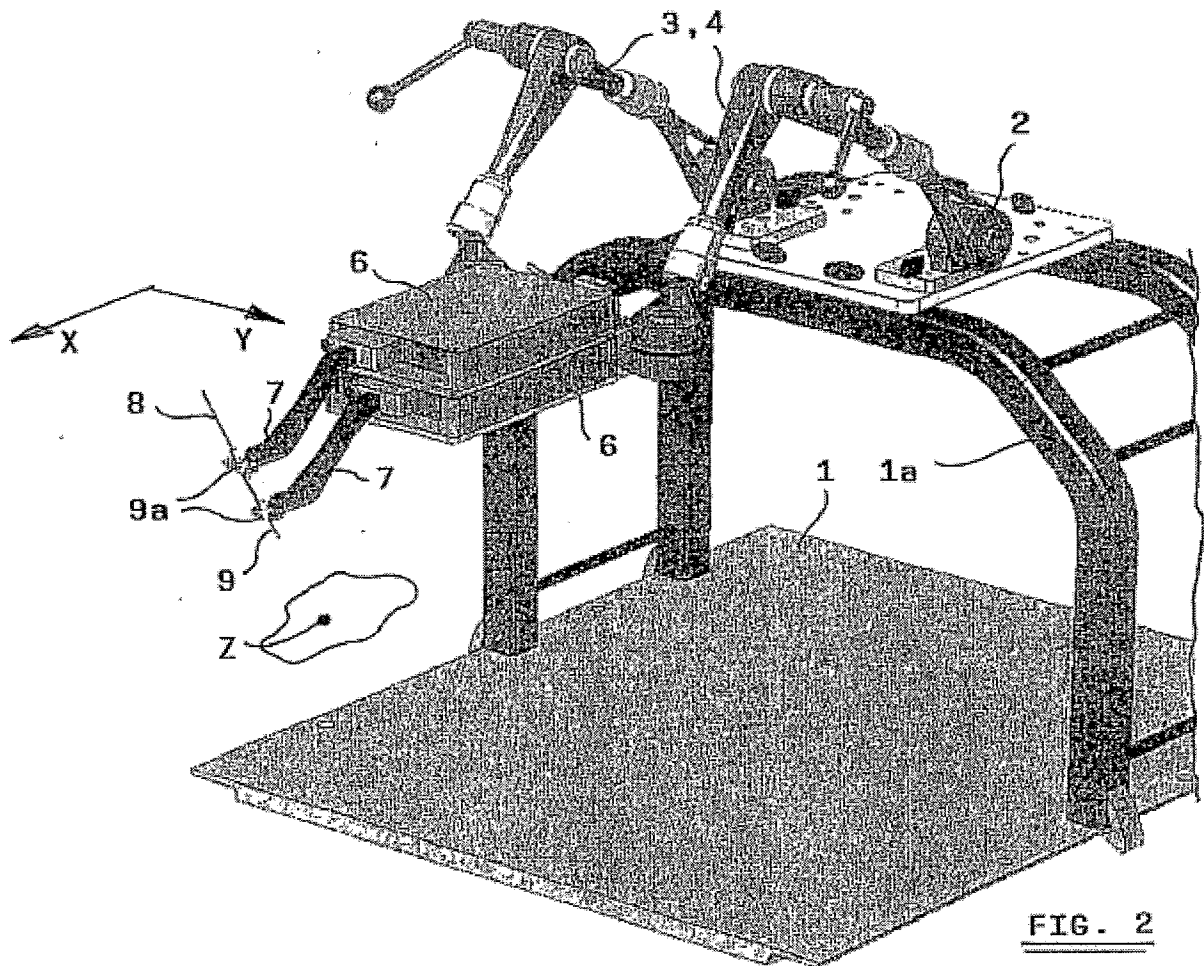
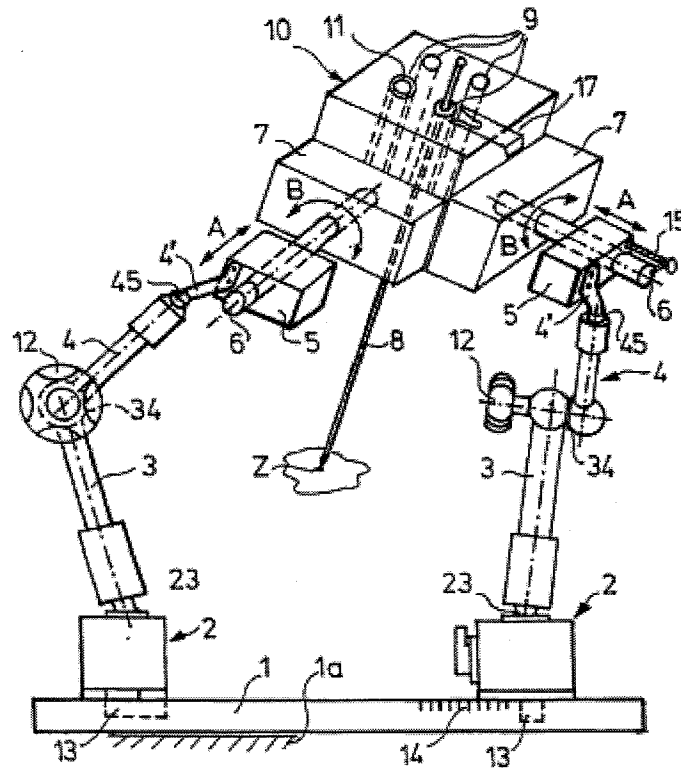


FIG. 2

**Vogele** is a published patent application relating to one of Applicant's prior inventions in this field. As exemplified by Figure 1, **Vogele** discloses an apparatus that manipulates a medical instrument 8 extending from an aiming arrangement 10 that is rotationally and translationally coupled between two pairs of holder rods 3,4:.



**FIG.1**

As can be seen, **Vogele** does not teach or suggest “a base plate formed from a scaffold- or portal-like frame that is configured for surrounding a patient.” Of equal importance, **Vogele** does not teach or suggest an apparatus “wherein the target device is mounted on two adjustment arms which are each independently movable by means of an actuating drive on the free ends of the holding rods in the X- and/or Y- plane, and wherein the two actuating drives are arranged directly above one another and are arranged as flat boxes, and wherein each actuating drive controls movement of an associated adjustment arm.”

Applicant respectfully submits that these emphasized claim elements cannot reasonably be found in the hypothetical combination of **Vogele** with **Charles et al.** and **Hosko**.

First, as to **Hosko**, Applicant respectfully submits that **Hosko** does not refer to the medical field, in particular stereotactic operation, at all. Hosko's "monkey chair" is a restraining device that is comparable to a medieval pillory (see Col. 2, lines 62-67):

Claims 22, 32, and 34 are secured in position to provide the minimum restraint consonant with the purpose for which the animal is being used. With this chair it has been possible to maintain monkeys for a considerable period in good physiological and psychological health.

A person of ordinary skill in art would not reasonably modify **Vogele**, based on **Hosko's** "monkey chair," to arrive at amended Claim 1's "apparatus ... for introducing puncture needles or operation probes, comprising a a base plate formed from a scaffold- or portal-like frame that is configured for surrounding a patient." The purpose of applicant's "portal-like frame that is configured for surrounding a patient" is to provide a calibrated environment for manipulating the targeting device, not to restrain the patient in shackles.

Second, as to **Charles et al.**, Applicant respectfully submits that **Charles et al.** does not reasonably teach or suggest an apparatus, as recited in amended Claim 1, that "comprises a base plate formed from a scaffold- or portal-like frame that is configured for surrounding a patient". and also "wherein the target device is mounted on two adjustment arms which are each independently movable by means of an actuating drive on the free ends of the holding rods in the X- and/or Y- plane, and wherein the two actuating drives are arranged directly above one another and are arranged as flat boxes, and wherein each actuating drive controls movement of an associated adjustment arm."

In particular, **Charles et al.** relies on an extremely inconvenient head clamp 162 with head engaging pins 166, 168, 170,. Thus, **Charles et al.** is inherently limited to the

environment of a patient's head whereas the present invention is mainly suitable for operations near the backbone in that the portal-like frame 1a bridges over the patient and allows the holding rods to access nearly each point of the patient's back and backbone.

Based on the foregoing, Applicant respectfully submits that amended Claim 1 is allowable over the prior art of record and that dependent Claims 2-3, 5, and 7 add further patentable subject matter.

### **CONCLUSION**

In view of the foregoing amendments and remarks, Applicant believes that all currently pending claims are in condition for allowance. Reconsideration, re-examination, and allowance of all claims are respectfully requested. The Examiner is encouraged to phone the undersigned attorney if it appears that a telephone conference would further this application in any way.

Respectfully submitted,

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